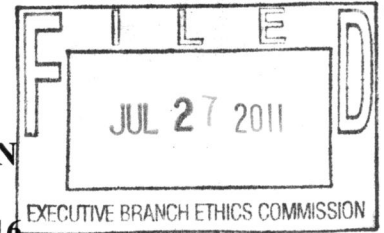


COMMONWEALTH OF KENTUCKY  
EXECUTIVE BRANCH ETHICS COMMISSION  
AGENCY NO. 11-01  
ADMINISTRATIVE ACTION NO. 11-EBEC-0016



EXECUTIVE BRANCH ETHICS COMMISSION

COMPLAINANT

vs.

**RECOMMENDED ORDER OF DEFAULT JUDGMENT**

PATRICK YATES

RESPONDENT

\* \* \* \* \*

THIS MATTER came before the hearing officer on July 26, 2011, at 10:00 a.m., ET, for a Hearing to be held pursuant to KRS 13B.080. Hon. Kathryn H. Gabhart appeared as counsel for the Executive Branch Ethics Commission, hereafter "the Commission," along with the Commission's Executive Director, John R. Steffen. Neither the Respondent, Patrick Yates, or his Counsel appeared for the hearing. The Commission then moved for a default judgment.

Pursuant to KRS 13B.080 (6), if a party properly served under KRS 13B.050 fails to attend or participate in a hearing, the hearing officer can adjourn the proceedings and issue a default order granting or denying relief as appropriate. The default order is to be considered a recommended order.

Therefore, the hearing officer being otherwise duly advised, IT IS HEREBY RECOMMENDED that the Kentucky Executive Branch Ethics Commission issue a final order against the Respondent, Patrick Yates, finding him in default, determining that all the allegations in the Commission's Allegation of Violations are true by reason of his default, and ordering an appropriate penalty as authorized by KRS 11A.100.

## **NOTICE TO PARTIES OF EXCEPTION AND APPEAL RIGHTS**

Pursuant to KRS 13B.110(4):

a copy of the hearing officer's recommended order shall also be sent to each party in the hearing and each party shall have fifteen (15) days from the date the recommended order is mailed within which to file exceptions to the recommendations with the agency head.

Pursuant to KRS 13B.120(2):

the agency head may accept this recommended order and adopt it as the agency's final order, or it may reject or modify, in whole or in part, the recommended order, or it may remand the matter, in whole or in part, to the hearing officer for further proceedings as appropriate.

Pursuant to KRS 13B.120(4):

the agency head shall render a final order in an administrative hearing within ninety (90) days after the hearing officer submits a recommended order to the agency head, unless the matter is remanded to the hearing officer for further proceedings.

Pursuant to KRS 13B.140:

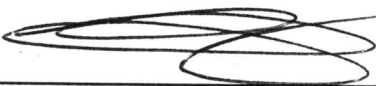
All final orders of an agency shall be subject to judicial review in accordance with the provisions of KRS Chapter 13B. A party shall institute an appeal by filing a petition in the Circuit Court of venue, as provided in the agency's enabling statutes, within thirty (30) days after the final order of the agency is mailed or delivered by personal service. If venue for appeal is not stated in the enabling statutes, a party may appeal to Franklin Circuit Court or the Circuit Court of the county in which the appealing party resides or operates a place of business. Copies of the petition shall be served by the petitioner upon the agency and all parties of record. The petition shall include the names and addresses of all parties to the proceeding and the agency involved, in a statement of the grounds on which the review is requested. The petition shall be accompanied by a copy of the final order.

Pursuant to KRS 23A.010(4), "Such review [by the Circuit Court] shall not constitute an appeal but an original action." Some courts have interpreted this language to mean that

summons must be served when filing an appeal petition in the Circuit Court.

Except for arguments that a statute or regulation is facially invalid, to preserve the right to appeal any issue with the recommended order, case law requires that a party first file with the board or agency exceptions to that issue. Exceptions shall be filed as prescribed by KRS 13B.110(4).

SO RECOMMENDED this 26 day of July, 2011.



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STUART W. COBB  
HEARING OFFICER  
ADMINISTRATIVE HEARINGS BRANCH  
OFFICE OF THE ATTORNEY GENERAL  
1024 CAPITAL CENTER DR., STE. 200  
FRANKFORT, KENTUCKY 40601-8204  
(502) 696-5442  
(502) 573-1009 - FAX

**CERTIFICATE OF SERVICE**

I hereby certify that the original of this ORDER was mailed this 26th day of July,

2011, by messenger mail, to:

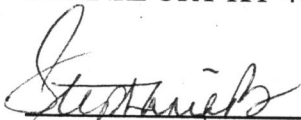
DEBBIE BRISCOE  
EXECUTIVE ASSISTANT  
EXECUTIVE BRANCH ETHICS COMM  
#3 FOUNTAIN PLACE  
FRANKFORT KY 40601

for filing; and a true copy was sent by first-class mail, postage prepaid, to:

ROGER D VARNEY II  
ATTORNEY AT LAW  
PO BOX 402  
PIKEVILLE KY 41502

and, by messenger mail, to:

KATIE GABHART  
GENERAL COUNSEL  
EXECUTIVE BRANCH ETHICS COMM  
#3 FOUNTAIN PLACE  
FRANKFORT KY 40601



DOCKET COORDINATOR

110016fc.swc.wpd